

Chapter 14.58 Impact Fee Assessments – Parks, Roads and Schools.

14.58.010	Purpose.
14.58.020	Scope.
14.58.030	Exemptions.
14.58.040	Use of funds.
14.58.050	Assessment of impact fees.
14.58.060	Impact fee schedules.
14.58.070	Independent fee calculations.
14.58.080	Fee credits.
14.58.090	Establishment of accounts.
14.58.100	Fee refunds.
14.58.110	Tax adjustments.
14.58.120	Interlocal agreement.
14.58.130	Existing SEPA authority unimpaired.
14.58.140	Impact fee calculation.
14.58.150	Public Works Director decision.
14.58.160	Issue approvals and permits.

14.58.010 Purpose.

Pursuant to the Revised Code of Washington (RCW) Chapter 82.02, the City Council adopts this chapter to assess impact fees for community parks, roads, and schools. The provisions of this chapter shall be liberally construed in order to carry out the purpose of the Council in establishing the impact fee program.

14.58.020 Scope.

- A. The City shall collect impact fees as set forth in this chapter from any applicant seeking development approval from the City, for any development activity within the City where such development activity requires the issuance of a building permit or approval of site plan, development agreement, or long or short subdivision, except that nonresidential development shall not be assessed a community park or school impact fee.
- B. Impact fees shall be collected from the applicant as set out in DMC 14.58.140.

14.58.030 Exemptions.

- A. Parks and Roads. The following development activities shall be exempt from the payment of all impact fees:
 - 1. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure;
 - 2. Alteration, expansion, enlargement, remodeling, rehabilitation, or conversion of an existing dwelling unit where no additional units are created and the use is not changed;
 - 3. Construction of accessory residential structures that will not create significant impacts on public facilities as determined by the Public Works Director;
 - 4. Alterations of an existing nonresidential structure that do not expand the useable space;
 - 5. Miscellaneous improvements, including but not limited to fences, walls, swimming pools and signs;
 - 6. Demolition or moving of a structure;

7. Nonresidential new development will not be charged a community park impact fee; provided, however, that a nonresidential development may still be required to dedicate land for parks under the State Environmental Policy Act (SEPA), RCW Chapter 43.21C;
 8. Construction of school district, fire district, library district or municipal facilities.
- B. Schools. Any form of housing exclusively for the elderly, including nursing homes and retirement centers, so long as these uses are maintained in perpetuity and the necessary covenants or declaration of restrictions are recorded on the property to ensure that no children will reside in the development, shall be exempt from school impact fees as determined by the Riverview School District.

14.58.040 Use of funds.

- A. Impact fees collected for community parks, transportation, and schools shall only be used in accordance with RCW 82.02.050.
- B. Impact fees collected for transportation projects are further subject to the provisions of RCW 39.92.

14.58.050 Assessment of impact fees.

- A. Schools. The City shall collect school impact fees from applicants for any development activity not explicitly exempted from this chapter, including short or long plat approval or the issuance of a residential building permit or a mobile home permit.
 1. Fifty percent of the impact fees due on the plat shall be assessed and collected from the applicant at the time of final plat approval, using the fee schedule in effect when the plat receives final approval. The balance of the assessed fee shall be allocated to the dwelling units in the project, and shall be collected when the building permits for each dwelling unit are issued using the fee schedule in effect when the plat received final approval.
 2. For lots not covered by 14.58.050.A.1, including all lots in short plats and applications for single-family and multi-family residential building permits, and mobile home permits, the total amount of the impact fees shall be assessed and collected from the applicant when the building permit is issued, using the fee schedule then in effect.
- B. Parks. The City shall collect impact fees for parks from any applicant seeking residential development approval from the City where such development activity requires final short or long plat approval or the issuance of a residential building permit or a mobile home permit. Nonresidential development shall not be assessed a park impact fee. Impact fees shall be collected from the applicant when the building permit is issued, using the fee schedule then in effect. There shall be no impact fees for Accessory Dwelling Units.
- C. Roads. The City shall collect impact fees for roads from any applicant seeking residential or commercial development approval where such development activity requires a short or long subdivision, site plan, development agreement, conditional use permit or the issuance of a residential or commercial building permit or mobile home permit. Impact fees shall be collected from the applicant when the building permit is issued, using the fee schedule then in effect. There shall be no impact fees for Accessory Dwelling Units.

14.58.060 Impact fee schedules.

- A. Park and road impact fees will be based on the Duvall Comprehensive Plan and supporting documentation. Road impact fees for residential uses will be based on the type of residential use, single-family, multi-family, or mobile home. Road impact fees for

non-residential uses will be based on the number of PM peak trips generated by the development.

- B. The determination of the number of PM peak hour trips shall be made as follows: The applicant shall retain, at the applicant's expense, a traffic consultant approved by the City to establish the per PM peak trip generation for the development. The Public Works Director shall review the consultant's report, request such additional information as may be needed to establish the trip generation, and make a determination as to the road impact fee for the project. The applicant shall be notified in writing of the impact fee.
- C. Park, road and school district impact fees shall be set by resolution.
- D. The impact fee schedule set out in accordance with this chapter and approved by resolution shall be reviewed by the City Council as it may deem necessary and appropriate and/or in conjunction with the annual update of the capital facilities plan of the City's comprehensive plan.
- E. Where the Hearing Examiner determines that there is a flaw in the impact fee program or that a specific exemption or credit should be awarded on a consistent basis or that the principles of fairness require amendments to this chapter, the Hearing Examiner may advise the City Council as to any question or questions that the Hearing Examiner believes should be reviewed as part of the Council's annual or other periodic review of the fee schedule as mandated by this chapter.

14.58.070 Independent fee calculations.

- A. Parks and Roads.
 - 1. If the Public Works Director determines that none of the fee categories set forth in this chapter accurately describe or capture the impacts of the new development, he may conduct independent fee calculations and impose alternative fees on a specific development based on those calculations. For example, with respect to group homes, the fees imposed may take into account the size and number of residents proposed to be housed in such group homes, and the Public Works Director may determine the fees to be imposed based on the his judgment of the approximate equivalent number of residents that would be generated compared to single-family dwellings.
 - 2. If an applicant can demonstrate that none of the fee categories set forth in this chapter accurately capture the impacts of a new development, then the applicant may prepare and submit to the Public Works Director an independent fee calculation for the development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made.
 - 3. While there is a presumption that the fees set forth by resolution by the City Council are valid for each form of development, the Public Works Director shall consider the independent fee calculation documentation submitted by the applicant. However, the Public Works Director is not required to accept any documentation which he reasonably deems to be inaccurate or unreliable and may, in the alternative, require the applicant to submit additional or different documentation for consideration. Based on the information in the Public Works Director's possession, the Public Works Director is authorized to adjust the impact fee calculation to the specific characteristics of the development activities, and/or according to principles of fairness.

14.58.080 Fee credits.

An applicant can request that a credit or credits be awarded for the value of required dedicated land for system improvements, or for construction of system improvements, if the land and/or

improvements constructed are identified in the current City or school district capital facilities plan. Applicants for projects for which roads, parks or school fees have been collected by voluntary agreement or pursuant to the City's general platting authority, may request a credit for the amount of such fees paid.

A. Credits in General.

1. A credit shall be allowed only to the extent necessary to offset impact fees that would otherwise be charged to the development. The City or school district is not liable to refund the developer any excess credit over impact fees.
2. Park impact credits may be applied only to park impact fees, road impact credits applied only to road impact fees, and school impact credits applied only to school impact fees. Credits may not be transferred to other lots or projects.

B. Park and road credits shall be established as follows:

1. The amount of the credit shall be determined at the time of preliminary short or long plat, site plan, development agreement, or conditional use permit approval and be set forth in the written decision approving the application.
2. For lots or development activity not covered in 14.58.080.B.1, the amount of the credit shall be determined prior to issuance of a building permit and after improvements for which credit is sought are constructed. The applicant shall submit with the application proof of the cost of any system improvements or the value of any land dedication to the Public Works Director. The Public Works Director shall review the submitted material, request any additional information, and then notify the applicant in writing of the amount of the credit that will be granted.
3. No credit shall be given for:
 - a. Project improvements; or
 - b. Right-of-way dedications for direct access to a development except to the extent additional right-of-way is required because the direct access road will be a system improvement. In that event, credit shall be given for the value of the additional right-of-way required to be dedicated.

C. School credits shall be as agreed to between a developer and the district.

14.58.090 Establishment of accounts.

- A. Impact fee receipts shall be earmarked specifically and deposited in special interest-bearing accounts. The fees received shall be prudently invested in a manner consistent with the investment policies of the City and/or Riverview School District.
- B. Three separate impact fee accounts are established for the fees collected pursuant to this chapter: the parks impact accounts which will be managed by the City; the roads impact account which will be managed by the City; and the schools impact account which will be managed by the School District. Funds withdrawn from these accounts must be used in accordance with the provisions of this chapter. Interest earned on the impact fees shall be retained in each of the accounts and expended for the purposes for which the impact fees were collected.
- C. Annually, the Finance Director shall provide a report to the City Council on the park and road impact fee accounts showing the source and amount of all moneys collected, earned or received, and the public improvements that were financed in whole or in part by impact fees.
- D. Annually, the District shall submit a report to the City on school impact fees showing the source and amount of all moneys collected, earned or received, and capital or system improvements that were financed in whole or in part by impact fees.
- E. Impact fees shall be expended or encumbered within 6 years of receipt, unless the City Council or School Board identifies in written findings an extraordinary and compelling

reason or reasons for the City or school district to hold the fees beyond the 6 year period. Under such circumstances, the Council or School Board shall establish the time within which the impact fees shall be expended or encumbered.

14.58.100 Fee refunds.

A. Parks and Roads.

1. If the City fails to expend or encumber the impact fees within 6 years of when the fees were paid, or where extraordinary or compelling reasons exist, such other time periods as established pursuant to this chapter, the current owner(s) of the property on which impact fees have been paid may receive a refund of such fees. In determining whether impact fees have been expended or encumbered, impact fees shall be considered expended or encumbered on a first-in, first-out basis.
2. The City shall notify potential claimants by registered first class mail postage paid, deposited with the United States Postal Service at the last known address of such claimants. A potential claimant must be the owner of the property.
3. Owners seeking a refund of impact fees must submit a written request for a refund of the fees to the Finance Director within 1 year of the date that the right to claim the refund arises, or the date that notice is given, whichever is later.
4. Impact fees for which no application for a refund has been made within this 1 year period shall be retained by the City and expended on the indicated public facilities.
5. Refunds of impact fees under this section shall include any interest earned on the impact fees by the City.
6. When the City seeks to terminate any or all components of the impact fee program, any funds not expended or encumbered from any terminated component or components, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the City shall place notice of such termination, and the availability of refunds, in a newspaper of general circulation at least 2 times and shall notify all potential claimants by first class mail at the last known address of the claimants. All funds available for refund shall be retained for a period of one year. At the end of 1 year, any remaining funds shall be retained by the City, but must be expended for the indicated public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.
7. The City shall refund to the current owner of property for which impact fees have been paid all impact fees paid, including interest earned on the impact fees, within 1 year of the date the right to claim the refunds rises, or the date that notice is given, whichever is later, if the development activity for which the impact fees were imposed did not occur and no impact has resulted.

B. Schools. Refund of such credits are as determined appropriate by the district and are payable by the district.

14.58.110 Tax adjustments.

- ##### **A.**
- Pursuant to and consistent with the requirement of RCW 82.02.060, the Transportation and Capital Facilities Plans have provided adjustments for past and future taxes paid or to be paid by the new development which are earmarked for or proratable to the same new public facilities that will serve the new development. The impact fee schedules approved in accordance with this chapter have been reasonably adjusted for taxes and other revenue sources which are anticipated to fund system improvements.

- B. The school impact fee formula in the adopted Capital Facilities Plan provides a credit for the anticipated tax contributions that would be made by the development based on historical levels of voter support for bond issues in the Riverview School District.

14.58.120 Interlocal agreement.

The Mayor is authorized to execute, on behalf of the City, an interlocal agreement for the collection, expenditure and reporting of school impact fees; provided that, such interlocal agreement comply with the provisions of this section:

- A. The District shall establish a school impact fee account with the office of the King County treasurer, who serves as treasurer for the district. The account shall be prudently invested in a manner consistent with the investment policies of the District.
- B. The City shall collect the fee payments made payable to the District and transfer the payments to the District for deposit into the District's school impact fee account.
- C. On the annual basis, the District shall submit the following materials to the City:
 - 1. The annual update of the District's capital facilities plan, including an updated fee calculation if appropriate;
 - 2. An annual report of the school impact fee account, showing the source and amount of all moneys collected, earned or received, and the public improvements that were financed in whole or in part by impact fees.
- D. The impact fee schedule set out by resolution shall be reviewed and updated by the Council as needed on an annual basis after the Council receives the District's plan and update. The review shall occur in conjunction with the annual update of the City's comprehensive plan.

14.58.130 Existing SEPA authority unimpaired.

Nothing in this chapter shall preclude the City from requiring the applicant or the proponent of a development activity to mitigate adverse environmental impacts of a specific development pursuant to SEPA, based on environmental documents accompanying the underlying development approval process; provided that, the exercise of this authority is consistent with the provisions of RCW 82.02.050 (1)(c).

14.58.140 Impact fee calculation.

Based on the information reviewed and discussed during the preapplication meeting, and as part of an application submittal, the applicant will provide the requested information, which may include:

- A. An impact fee calculation in accordance with the City Council's approved fee schedule;
- B. Where applicable, an independent fee calculation along with supporting traffic studies or other analytical requirements which may be determined based on the results of the preapplication meeting;
- C. If applicable, a development credit calculation which itemizes the estimated value of any dedicated lands or improvements which the applicant has or will make as a condition of a subdivision or site plan approval. Dedicated lands or improvements must be identified as system-wide improvements in the City's comprehensive plan;
- D. The City's cost of administering the impact fee program shall be established by resolution. Where fees for a lot are split between final plat approval and building permit issuance, 1/2 the administrative fee per lot shall be paid at final plat approval and the other 1/2 paid at permit issuance.

14.58.150 Public Works Director decision.

Based on the results of the staff review of the impact fee calculations, independent fee calculation, and/or credit for land dedication or improvement assessment, the Public Works Director may:

- A. Agree with and approve all proposed fee assessments or credits of the application;
- B. Agree with and approve portions of the proposed fee assessment applications, which may include adjustments to the proposed schedules, independent calculations and/or credits. The Public Works Director may include such adjustments or conditions on the approval of impact fee assessments as the DRC recommends necessary under this code, the SEPA, and other applicable law;
- C. Disagree with and disapprove portions or all of the proposed fee assessment applications as submitted by the applicant due to major unresolved issues or problems complying with comprehensive plan policies, capital improvement project (CIP) concurrencies, or other policy particulars. If the decision is to deny the application, the Public Works Director shall clearly indicate what, if any, changes or additional material may be necessary to obtain a decision of approval;
- D. The Public Works Director's decision shall be in writing and shall include findings of fact and conclusions to support the decision.

14.58.160 Issue approvals and permits.

The City shall not grant final plat approval nor issue building or mobile home permits unless and until the impact fees set forth in the applicable fee schedule as provided for this chapter have been paid; provided, that any applicant may pay the impact fees imposed in accordance with this chapter under protest in order to obtain development approval.